

Application Serial No. 09/855,317
Date April 4, 2005
Reply to Office Action dated January 3, 2005

Page 5 of 7

REMARKS

In the Office Action dated January 3, 2005, claims 8 and 11 are objected to. Claims 1-12 are rejected under 35 U.S.C. § 103(a).

However, for the reasons set forth hereafter, it is respectfully submitted that Applicants' invention as set forth in claims 1-12 include features which are not suggested or rendered obvious by the cited references, taken in any permissible combination. Reconsideration is, therefore, respectfully requested.

In view of the amendments to claims 8 and 11, it is respectfully submitted that the objections have been overcome since claims 8 and 11 do not contain any ambiguities.

Claims 1-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Christiano in view of Conner. The Examiner contends that Christiano discloses a license management system for software application including all the features of the claims except that Christiano does not exclusively describe a system that uses servers from an application service provider to host applications for a customer. The Examiner cites Conner for disclosing a system and method for automatically negotiating license arrangements on application service providers. From this, the Examiner concludes that it would have been obvious to one of ordinary skill in the art of digital content distribution and delivery over an open network to provide the user with the option to execute requested digital content on an ASP server and to provide pay per use license arrangements based on application share among multiple enterprises with multiple users on a virtual host.

However, it is respectfully submitted that the Examiner has not established *prima facie* case of obviousness to support a rejection of Applicants' invention as set forth in claims 1-12 based on any permissible combination of Christiano and Conner.

Christiano and Conner fail to disclose a licensing method which is usable with applications which are capable of being run on both a customer computer network and an application service provider.

The cited references fail to disclose a licensing method which charges a number of checked out units to the customer computer network based on the digital

Application Serial No. 09/855,317
Date April 4, 2005
Reply to Office Action dated January 3, 2005

Page 6 of 7

content currently being run by the customer on the customer computer network and on the application service provider, determining a number of available units equal to the difference between the total license units to the customer computer network and the total checked out units charged to the customer computer network for digital content currently being executed on the customer computer network and on the application service provider, and determining whether a requested digital content is to be executed or denied execution on at least one of the customer computer network and the application service provider based on the difference between the available units on the customer computer network requesting execution of the digital content and the total checked out units charged to the customer computer network.

Applicant's method as set forth in claims 1-12 provides the user of a computer network with the flexibility to determine where a particular licensed digital content is to be executed through the number of licensed units purchased. This further enables the user to structure its computer network in the most favorable manner to the user with only the capacity necessary to run a normal number of programs, while relying on the application service provider for additional computing capacity. The user has the further capability of relying on the application service provider for all of its computing capacity during peak or even non-peak usage times.

It is respectfully submitted that one of ordinary skill in the art would not be led to any combination of Christiano and Conner which would provide this capability as set forth in claims 1-12.

Any suggestion to add an application service provider to the customer network of Christiano where the licensing method recognizes checked out units on both the customer computer network and the application service provider to determine where, if at all, a particular requested digital content is to be executed can only come from Applicants' invention; which hindsight use is prohibited.

For these reasons it is respectfully submitted that Applicants' invention as set forth in claims 1-12 includes features which are not suggested or rendered obvious by the cited references, taken in any permissible combination. Thus, claims 1-12 are

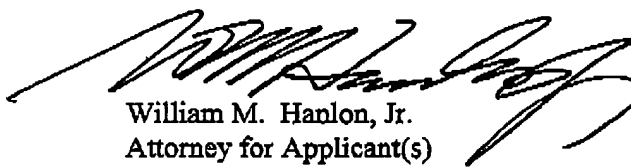
Application Serial No. 09/855,317
Date April 4, 2005
Reply to Office Action dated January 3, 2005

Page 7 of 7

submitted to be in condition for allowance; a notice of which is respectfully requested.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE, WOOD
& HELMHOLDT, P.C.



William M. Hanlon, Jr.
Attorney for Applicant(s)
Registration No. 28422
(248) 649-3333

3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107

Dated: April 4, 2005
WMH/grl